

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1334 OF 2004
IN
WRIT PETITION NO.5579 OF 2003

M/s.Thakur Brothers & Anr. ..Applicants.

V/s.

State of Maharashtra & Ors. ..Respondents.

Mr.K.S.Dewal for applicants.

Mr.Ravi Kadam, Advocate General with Mr.A.H.Palekar,
AGP for Respondent Nos.1 to 4.

Mr.Sahastrabudha h/f G.S.Godbole for respondent No.5.

CORAM: A.M.KHANWILKAR, J

DATE : APRIL 18, 2006.

P.C. :

1. Heard.

2. It is brought to my notice that some arrangement has been worked out between the State Government and the applicants. In view of the said arrangement, which is accepted by the applicants as recorded in the form of Tadjodnama appended to the affidavit dated 18th April, 2006 sworn by Sudhakar Ramchandra Chavan, Deputy Secretary to Government, Revenue and Forests Department, tendered across the bar today, nothing will survive for consideration in this application. As per the arrangement arrived at

between the parties, even the suit will not survive and parties will take necessary steps to withdraw the same. That assurance is reiterated before the court and is accepted.

3. The respondent No.5 however, has apprehension that, relying on the arrangement entered between the applicants and the State Government, the State Government will obstruct the respondent No.5 Konark from continuing with the excavation of sand inspite of subsisting permission in its favour. In my opinion, the apprehension is misplaced. For, that is not the scope of the arrangement between the applicants and State Government. It will be open to the respondent No.5, Konark to challenge such action, if resorted to by the State Government inspite of the subsisting permission in its favour. That challenge will be decided on its own merits in accordance with the law.

4. It is placed on record by respondent No.5 Konark that the permission operating in its favour is valid till 31st July, 2006.

5. Accordingly, this application will have to be disposed of as not pressed in view of the arrangement

arrived at between the State Government and the Applicants.

6. At this stage, counsel for the applicants points out that in the event, the State Government suffers any shortfall on account of sale of sand referred to in paragraph-2 of the Tadzodnama, the applicants should not be made accountable therefor. In the alternative the applicants be granted liberty to pursue the claim against the same in accordance with the law. It is made clear that I am not expressing any opinion about the correctness of the arrangement arrived at between the parties. The applicants being satisfied with the offer made by the State Government as recorded in Tadjodnama referred to above, issue raised in this application does not survive for consideration. Hence, this application is disposed of.

7. While parting I may note that the Advocate General appeared for the State Government and pointed out that arrangement between the parties as reflected in Tadjodnama has been taken at the highest level, considering all aspects of the matter and seems to be a fair solution offered by the State Government.